

***United States Court of Appeals
for the Second Circuit***



APPENDIX

75-4115

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

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ROLANDO UBALDO,

Petitioner,

- v -

IMMIGRATION AND NATURALIZATION
SERVICE,

Respondent.

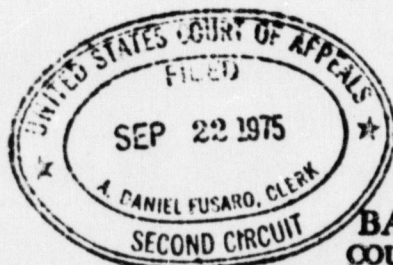
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PETITIONER'S APPENDIX
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UNITED STATES DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

MATTER OF

ROLANDO REALE

FILE A- **20 076 298**

IN **Deportation** PROCEEDINGS

TRANSCRIPT OF HEARING

Before: **Howard I. Cohen** Immigration Judge

Date: **September 30, 1974** Place: **20 West Broadway, N.Y., N.Y. 10007**

Transcribed by **Barry Lee Jones** Recorded by **Dietschelt**

Official Interpreter **No one.**

Language **English**

APPEARANCES:

For the Service:

William Dunlop, Esq.
Trial Attorney

Station

For the Respondent:

Barry, Barry & Barry

One Hunter Street

Long Island City, N.Y. 11101

Lee H. Barry, Esq. of counsel.

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1 Reopened deportation proceeding.

2 IMMIGRATION JUDGE TO RESPONDENT: (In English)

3 Q Your name is Rolando Ubaldof

4 A Yes sir.

5 Q Do you speak and understand English?

6 A Yes sir.

7 Q If there is something that you do not understand will you tell me and
8 I will explain it. Is that clear?

9 A Yes sir.

10 Q Do you remember appearing before me on May 14, 1973 at which time I
11 granted you until July 14, 1973 to leave the country or otherwise you would
12 be deported to the Philippines. Do you remember that incident?

13 A Yes sir.

14 Q Was Mr. Barry, the gentleman seated at the head of the table present
15 with you at that time? Is he your lawyer today too?

16 A Yes.

17 Q You wish him to represent you in this hearing?

18 A Yes your honor.

19 Q Your attorney has made a motion to reopen that deportation proceeding
20 stating that you should not be deported and that you should be permitted
21 to remain in the United States on the theory that you would be politically
22 persecuted if returned to the Philippines. Is that correct?

23 A Yes sir.

24 Q The purpose of the hearing today is to determine whether that is so?
25 Do you understand?

26 A Yes sir I understand.

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1 Q The government had no opposition to the reopening of this proceeding
2 and I granted the motion so that we could hear all of the evidence concerning
3 this issue. Understood?

4 A Yes sir.

5 Q Stand up please. Raise your right hand. Do you solemnly swear that the
6 testimony you will give will be the truth, the whole truth and nothing but
7 the truth so help you God?

8 A Yes sir.

9 Q Be seated please? Please state your name for the record.

10 A My name is Rolando Ubaldo.

11 IMMIGRATION JUDGE TO TRIAL ATTORNEY:

12 Q Mr. Dunlop I have before me Form I-246 which is an application for stay
13 of deportation. Is there any objection to having this received in evidence
14 as Exhibit R-1?

15 A No.

16 Q Exhibit R-1 is a statement submitted by the law firm representing the
17 respondent concerning the issue before me.

18 IMMIGRATION JUDGE TO COUNSEL:

19 Q Mr. Barry did you represent the respondent at the deportation hearing
20 before me on May 4, 1973?

21 A I believe so Judge Cohen.

22 Q At that time you designated the Philippines, is that correct in case he
23 had to be deported?

24 A Excuse me sir. My firm represented the respondent. I was not present.

25 Q It was your firm?

26 A It was my firm that represented the respondent on 5/14. I believe Mr.

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TRANSCRIPT OF HEARING

United States Department of Justice — Immigration and Naturalization Service

1 Modroff of my firm was here. Looking at the notes on the file it indicates
2 that he appeared with, he appeared before you and was granted 60 days volun-
3 tary departure, that's right.

4 Q And designated Philippines if the respondent were to be deported?

5 A At that time, that's right.

6 Q Did your firm have knowledge at that time that there would be a possible
7 claim for political persecution under 243(h).

8 A I don't believe so sir.

9 Q When did you realize that you could not return to the Philippines?

10 COUNSEL: Let me ask you this. If we are going into that do you have the
11 belts of the prior record.

12 Q That was a mish proceeding. I'd be glad to get the mish proceeding
13 but I'm sure...

14 A Let's get the mish proceeding.

15 IMMIGRATION JUDGE: Off the record for a moment.

16 Let the record show that an off the record discussion was had by and bet-
17 ween Mr. Barry and myself concerning the obtaining of the belt of the prior
18 hearing at which time his firm represented the respondent. Mr. Barry was
19 concerned as to what was said concerning possible...

20 A I wasn't concerned you were concerned. You're bringing up these
21 questions, not me.

22 Q Well you were the one who asked for the belt?

23 A Yes sir. In view of your questioning the respondent here as to when
24 he first realized he could not, - I'm mean. Is my firm on the carpet here.
25 Why are you making the interrogation of this man. What's your purpose?

26 Q Because I believe ...

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TRANSCRIPT OF HEARING

United States Department of Justice — Immigration and Naturalization Service

1 A Are we on the record sir.
2 Q Yes certainly.
3 A Fine good.
4 Q When this little blue light is on we are on the record, so you can see
5 it.
6 A I can't see it.
7 Q The purpose of the questioning is as follows. The respondent designated
8 the Philippines as the country to which he wants to be deported in case
9 deportation was going to occur. If there is a claim of political persecution
10 to a particular country a law firm will not designate that country. How can
11 they designate a country if they are asking for political asylum, so they
12 won't have to return to that country.
13 A I agree with you.
14 Q I just wanted to know whether this information was available to the
15 respondent in May of '73? That's my only question. I can make it simpler.
16 Are you willing to concede that in a ^{where} proceeding a law firm represents
17 the respondent, I would not ask the question as to whether he wishes politi-
18 cal asylum or if there is any reason why he could not go back to that coun-
19 try. However, I will give you the opportunity to be heard again because it
20 is a very serious claim.
21 A On behalf of the respondent I withdraw the designation of the Republic
22 of Philippines and on his behalf I designate Spain as the place to which
23 he desires to be deported.
24 Q Sustain withdrawal of the Philippines.
25 All right Mr. Barry you may proceed?
26 COUNSEL TO RESPONDENT:

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TRANSCRIPT OF HEARING

United States Department of Justice — Immigration and Naturalization Service

1 Q Mr. Ubalde how old are you?
2 A I'm 27 years old.
3 Q And what is the extent of your education?
4 A I finished just the third year of college in electrical engineering.
5 Q What college was that?
6 A Far Eastern University.
7 Q And what years did you attend Far Eastern University?
8 A Since I was in high school.
9 Q Well can you tell us what specific years you attended Far Eastern
10 University?
11 IMMIGRATION JUDGE: Where is the Far Eastern University located?
12 A In Manila, and I attended high school from 1959 up to the present I
13 meant to say up to 1970.
14 Q In other words you went to Far Eastern University High School and you
15 also attended Far Eastern University?
16 A Yes.
17 Q And you were there from 1959 to 1970?
18 IMMIGRATION JUDGE: I'm confused. The high school and college combined-
19 you attended from '59 to '70. Is that correct?
20 A Yes, that's right.
21 Q When did you finish high school and when did you start Far Eastern
22 University?
23 A I finished high school 1963 to 64.
24 Q And from ...
25 A From 1964 to 1970 I was enrolled in the institute of technology.
26 Q And you only finished your third year?

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TRANSCRIPT OF HEARING

United States Department of Justice — Immigration and Naturalization Service

1 A Third year.

2 Q Because I was a self supporting student at that time.

3 COUNSEL TO RESPONDENT:

4 Q Did there come a time when you joined the Philippine Constabulary?

5 A Excuse me.

6 Q Did there come a time while you were attending Far Eastern University

7 that you joined the Philippine Constabulary?

8 A Yes as a matter of fact I was a student when I joined the Philippine

9 Constabulary and was assigned as a undercover agent to infiltrate the

10 Maoist organizations—in other words the communist party on college organiza-

11 tions.

12 IMMIGRATION JUDGE TO RESPONDENT: I'm sorry I didn't catch the last phrase?

13 A I meant to say its to infiltrate and get information about the commu-

14 nists organizations especially in our colleges or in our universities.

15 Q Who did you become an undercover agent for?

16 A For Major I forget the...

17 Q Well what organization did this major represent?

18 A The political constabularity.

19 COUNSEL: During the time that you worked for this organization did you—were

20 you able to report various persons within the university who were engaged

21 in communist activity?

22 A Yes, I was able to report each and everyone to the higher authorities.

23 IMMIGRATION JUDGE: How many approximately?

24 A Approximately I would say five.

25 Q All students?

26 A All students.

TRANSCRIPT OF HEARING

United States Department of Justice — Immigration and Naturalization Service

1 COUNSEL: Now during that - as a result of your reporting various persons
2 engaged in communist activity did you also come into information concerning
3 President Marcos?

4 A I didn't get that would you...

5 Q With respect - you disclosed information concerning various persons
6 engaged in communist activity on the campus of Far Eastern University cor-
7 rect?

8 A Yes.

9 Q At the same time did you come into information concerning Ferdinand
10 Marcos and his regime?

11 A Yes as a matter of fact they were trying to keep my salary like when its
12 pay day you can't get a check until you pay a certain amount to a clerk.

13 Q In other words it is a kind of corruption it is a kickback?

14 A Kick back yes.

15 Q And you couldn't get paid by the government unless you kicked back to
16 them?

17 A Yes.

18 Q Now with respect to the government that you were working for did you
19 find out anything else that you considered improper?

20 A Yes I believe I was making or doing things for the government and after
21 that I found out that the government is doing something which is not good
22 on my part.

23 Q What wasn't good?

24 A Like the vast graft and corruption in the government and it makes me
25 feel unstable with my job and from that time I denounced the government of
26 Ferdinand Marcos.

TRANSCRIPT OF HEARING

United States Department of Justice — Immigration and Naturalization Service

1 Q Well who did you announce it to? Did you denounce it while you were on
2 campus?

3 A I terminated my services.

4 IMMIGRATION JUDGE: When?

5 A Approximately in December 1968 to 69.

6 Q You are not sure of the year?

7 COUNSEL: I show you this certification and ask you to identify it.

8 A Yes I terminated my services on the last day of December 1970.

9 COUNSEL TO RESPONDENT:

10 Q Will you tell us what that photocopy is that I showed you? Will you
11 describe it?

12 A This was issued to us as an I.D. in carrying high powered firearms
13 when we are given mission order wherever place we are supposed to go.

14 Q Is it confirmation that you are an intelligence operator of the
15 Republic of the Philippines?

16 A Yes.

17 COUNSEL: I offer into evidence.

18 IMMIGRATION JUDGE: Any objection Mr. Dunlop?

19 A No.

20 IMMIGRATION JUDGE: I have photostatic copy of a certification classified
21 confidential issued by the Philippine Constabulary certifying that the res-
22 pondent was appointed as an intelligence operator until December 31, 1970.
23 I will receive this as an Exhibit, R-2. My question sir is, you stated
24 that you were at the university until 1970, Exhibit R-2 shows that the
25 appointment expires in December 1970 and you stated that you denounced the
26 government and it terminated your services in December 1970. How was this

TRANSCRIPT OF HEARING

1 termination voluntary on your part ~~services~~ in December 1970. How was this
2 voluntary on your part or did it expire because you left the university?

3 A Excuse me again would you repeat it your honor.

4 Q Yes I'm a little confused as to how you left the Philippine Constabulary.
5 You testified that you denounced Ferdinand Marcos and terminated your services
6 in December 1970. You also testified that you finished your schooling at the
7 Far Eastern University in 1970 and this exhibit shows that your services were
8 terminated in December 1970. Could you explain that?

9 A Regarding my education I didn't mean to say that I finished my studies
10 already. I just said I finished the third year, I am supposed to do two
11 years more, to finish the degree to get a degree in electrical engineering.

12 Q Why didn't you continue in '71?

13 A I was already out of a job and I can't support myself and school.

14 Q Which job are you referring to?

15 A My job with the government.

16 Q Well did you leave the government voluntarily or did they ask you to
17 leave. Did they just terminate your services? That's what I'm trying to
18 find out?

19 A I just terminated my services, voluntarily.

20 Q Is that what this Exhibit R-2 seems to indicate?

21 A Well it just so happened that my service would end on December 31.
22 I decided to continue up to December so I would get my full pay.

23 Q Yes. This Exhibit R-2 shows a date of April 3, 1970 that's when you
24 were appointed is that correct? As an intelligence officer?

25 A That's being renewed every year your honor.

26 Q Right?

TRANSCRIPT OF HEARING

United States Department of Justice — Immigration and Naturalization Service

1 A But that was the last I.D. that was given to me.

2 Q And it expired December 31, 1970?

3 A 1970.

4 Q At that time you renounced President Marcos?

5 A Before.

6 Q How did you do it?

7 A Well first I had an argument with - I would say the treasury personnel
8 when they don't want to give my check-my pay unless they take out 30 pesos
9 something like that every^{pay}/day.

10 Q When did this occur?

11 A ...

12 COUNSEL TO RESPONDENT:

13 Q Were you paid monthly?

14 A We are paid every 15 days.

15 Q For every 15 days they wanted number of pesos?

16 A Yes. Every 15 days they wanted.

17 Q Did you pay them the pesos?

18 A Well there is nothing I can do unless they deducted from the pay
19 that I received.

20 IMMIGRATION JUDGE TO RESPONDENT:

21 Q Well I would like to know how soon before December '70 you objected.
22 In other words you paid for a while and then all of a sudden you said no
23 I'm not going to pay any more is that right?

24 A Yes.

25 Q Now when did that happen that you just wouldn't go along any more?

26 A It has been going on for quite a while but since I was not really

very much concerned what they are deducting then. Before they were de-

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United States Department of Justice — Immigration and Naturalization Service

ducting 5 pesos and then after years and years passes by it gets bigger and bigger and it becomes 10, it becomes 20 and it becomes 30. It has been going on since the beginning.

Q When did you actually join the Philippine Constabulary. If we could get that date it would help us.

A I would say on May 1968.

Q And was money taken out of your pay every two weeks immediately in '68 when you joined?

A In the first month that I joined they didn't give me a pay because they say it is a training and I'm not suppose to receive a payment for that. After several months after the first time, two months to be exact the first time I received my check from the government.

Q Now that we have the year that you joined the Philippine Constabulary 1968 can you tell us how soon after that you denounced the president?

COUNSEL: First of all I think that's a little to-way I question him?

IMMIGRATION JUDGE: Yes.

COUNSEL TO RESPONDENT:

Q When did President Marcos take office what year?

A He has been president for two terms already.

Q Was he president in May of 1968 when you joined?

A Yes, he's the president already.

Q Now Judge Cohen has asked you how long after May of 1968 when you joined the constabulary did you renounce Marcos?

A I renounced him right in the middle of the year 1970.

Q So about July of 1970?

A About July, August.

TRANSCRIPT OF HEARING

United States Department of Justice — Immigration and Naturalization Service

1 Q This money that was taken out of your pay do you know where it went?

2 A Gee I believe this goes to the pay clerk.

3 Q Thank you? Did all of the agents to your knowledge in the constabulary
4 kickback to the pay clerk?

5 A Yes.

6 Q Can you tell us these organizations--the names of the organizations
7 that you infiltrated?

8 A I have infiltrated the number one communist party in the Philippines
9 named Kabataang Makabayan.

10 IMMIGRATION JUDGE: How do you spell that? Number one communist organization

11 COUNSEL: Maybe you could spell it out on a piece of paper for the judge.

12 IMMIGRATION JUDGE: The spelling is Kabataang Makabayan. All right Mr.
13 Barry you may proceed.

14 COUNSEL: Did you - outside of this matter of pay deduction is there
15 anything else you discovered about the present government in the Philippines
16 that would leave you to believe that it would be dangerous for you to
17 return to the Philippines?

18 A Yes the democratic way of life was being killed little by little by
19 the administration.

20 IMMIGRATION JUDGE: What was being killed sir?

21 A The democratic life and I was very much afraid and concerned ^{my life} in that
22 if I won't leave the Philippine Constabulary at the same time doing my
23 activities to the student organization as an informer I decided to quit
24 as an informer and at the same time I went into hiding.

25 IMMIGRATION JUDGE TO RESPONDENT:

26 Well I am still unclear as to actually how you renounced President

TRANSCRIPT OF HEARING

United States Department of Justice — Immigration and Naturalization Service

1 Marcos. You said that you did it in the middle of the year 1970?

2 How did this come about. Did you do it in writing or orally?

3 A No I just did it orally in front of my superiors.

4 Q Yet they continued to permit you to work until December of 1970?

5 A They were trying to fascinate me.

6 Q Try to what?

7 A Fascinate me.

8 Q What do you mean by that?

9 A Don't worry about that. It is normal something like that.

10 IMMIGRATION JUDGE: What's normal?

11 A Normal corruption in the government.

12 Q They didn't take your renunciation seriously?

13 A They didn't take my renunciation seriously when I did it orally.
14 They say if you want, do it in writing.

15 Q I see.

16 A I don't want to do it because my life would be in danger.

17 COUNSEL TO RESPONDENT:

18 Q How would your life be in danger?

19 A Well number 1 if I would do it in writing they would terminate
20 me right away and since I was really exposed to the underground these
21 people are after me already and I would have no protection at all. If
22 I leave the government I will be just a plain citizen and will be unarm
23 and they are going to go after me.

24 Q Did these organizations know that you were an informant?

25 A They found out lately. Because I was public exposed to ...

26 TRIAL ATTORNEY: May I interject here. You say these other organizations.

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United States Department of Justice — Immigration and Naturalization Service

1 So far there has been only one mentioned. I was just wondering if you
2 forget...

3 COUNSEL: Were there any other organizations that you infiltrated besides
4 this one?

5 A Beside this one there were some small organization, communist organiza-
6 tion in different schools like they call it Makibaka.

7 IMMIGRATION JUDGE TO RESPONDENT: How do you spell that sir? Do you
8 want to spell it here? Makibaka. This organization was not located at
9 the Far Eastern University?

10 A No it's not, it's located at Philippine College of Commerce.

11 Q Also in Manila?

12 A Yes your honor.

13 Q Any others?

14 A Yes just another one I still remember they call it Samahan Ng Mga
15 Batang Mag-Aaral.

16 Q Do you want to spell that? Where was this organization located?

17 A That was located at the Manuel L. Quezon University.

18 Q Also in Manila?

19 A Yes your honor.

20 IMMIGRATION JUDGE TO COUNSEL: Mr. Barry you may proceed?

21 COUNSEL TO RESPONDENT:

22 Q Now as an informer and as an investigator of the government you say
23 that when you left government service you got out of the Philippines be-
24 cause the government that you worked for would not protect you?

25 A I believe they won't protect me.

26 Q You believe they wouldn't protect you. When you left did they permit

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United States Department of Justice — Immigration and Naturalization Service

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1 you to carry a gun?

2 A When I left they confiscated the firearms that were issued to me.

3 Q Did you ever try to secure a permit to carry a gun?

4 A After my services.

5 Q Yes?

6 A No I never.

7 Q Do you know whether the government would have issued one had you
8 applied?

9 A I believe not.

10 Q Would ^{you} have had to make your application to the constabulary from
11 which you resigned to carry a gun?

12 A I would not.

13 Q To what authority is an application to carry a firearm made?

14 A Before the martial law decree only businessmen who are entitled to
15 carry firearms and no t any other citizen could carry a firearm.

16 Q Only a businessman?

17 A Businessmen and police officers, law officers.

18 IMMIGRATION JUDGE TO RESPONDENT:

19 Q Could we get one point straight Mr. Ubaldo you stated in the middle
20 of July you renounced President Marcos but that your superiors didn't
21 take you seriously unless you put it in writing and then all of a sudden
22 in December of 1970 you terminated your relationship with the constabulary.
23 How did the termination take place in December. Can you explain that.
24 Why didn't you get a renewal?

25 A Well I decided to quit already. I didn't want to work anymore for
26 the government.

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United States Department of Justice — Immigration and Naturalization Service

1 Q But you stayed on until December?

2 A Yes just to get my full pay and to get my vacation pay, sick leave
3 pay just to complete my terms.

4 IMMIGRATION JUDGE TO COUNSEL: Mr. Barry?

5 COUNSEL TO RESPONDENT:

6 Q Did you submit anything in writing to the Philippine government
7 about these kickbacks?

8 A I did not.

9 Q You complained to no authority?

10 A I complained to my superiors.

11 Q And that is all?

12 A That's all.

13 Q And they did nothing?

14 A They say they would try to do something else and they did nothing.

15 Q Outside of this what instance of kickbacks can you tell us. Any
16 other instances of where there is operation of fraud going on in the
17 Philippine government?

18 A Yes as a matter of fact when you apply for a loan from the government
19 service at your insistence that is part of government they call it GSLS
20 insurance. When you are going to apply for a loan they tell you right
21 away the amount of money that they are going to take from you, that you
22 can take some money if you are applying for the loan.

23 Q Will you explain how a government official would profit from such
24 an arrangement?

25 A Gee I really can't explain how they profit from these kinds of
26 arrangements because they just do it inside the department.

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United States Department of Justice — Immigration and Naturalization Service

1 Q Will you give us. Will you give Judge Cohen an example of the actual
2 fraud?

3 IMMIGRATION JUDGE TO RESPONDENT:

4 Q Now were these frauds that Mr. Barry mentioned also what bothered you
5 during the time that you were in the Philippines prior to your resignation
6 in 1970?

7 A Yes your honor.

8 Q Okay will you describe it then for the record exactly how this worked?

9 A Well really so many things are happening even to the smallest paper you
10 want to apply. I'll give an example if you want to apply for a driver license
11 and a driver license fee cost only 5 pesos. To get a driver's license you have
12 to pay 30 pesos and in return you get a receipt for 5 pesos and you get a
13 driver's license and you never know what happens to the 25 pesos.

14 Q And who collects the 25 pesos?

15 A The only things that I can tell your honor is the clerks. I can't tell
16 you that it was the commissioner also because we just hand it in the window
17 and they give us back the receipt five pesos.

18 Q And this sort of operation was rampant in the Philippines when you left?

19 A Was rampant when I left.

20 Q And when you resigned from government service?

21 A Yes.

22 Q Do you know whether the same type of fraud within government service exists
23 today under Marcos?

24 A I really could tell nothing since he declared the martial law in the
25 Philippines I don't have any information at all.

26 Q When did you arrive in the United States?

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United States Department of Justice — Immigration and Naturalization Service

1 A I arrived in the United States December 19, 1971.
2 Q So you were here in the United States when martial law was declared?
3 A Yes I was in the United States.
4 Q Have you had any report from your family at home as to whether you should
5 or should not come home?
6 A The last time my mother wrote me a letter she says a company of Philippine
7 constabulary came to our house and searched our house for unknown reasons.
8 Q Did they advise your mother what they were searching for?
9 A No they didn't advise her.
10 Q Do you have any idea what they might have been looking for?
11 A They might...
12 Q Could they have been looking for you?
13 A Could be.
14 Q Can you tell us how your services for the constabulary between May of 1968
15 and December of 1970 could have adversely affect you now in the Philippines?
16 A Could you repeat it again.
17 Q How could your service in the Philippine constabulary as an informant
18 adversely affect you if you were to return to the Philippines today?
19 A I would be persecuted physically.
20 Q Why do you say that?
21 A Because I have a strong feeling that the army and the soldiers of Ferdinand
22 Marcos are looking for me.
23 Q What?
24 COUNSEL: What proof have you got? What have you done that they would be
25 looking for you?
26 A Probably my superiors have reported to the higher authority that I quit

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TRANSCRIPT OF HEARING

1 renounced the system that was going on.

2 Q Did you get a passport and a visa in the Philippines after you left
3 the constabulary before coming to the United States?

4 A Yes your honor.

5 Q When did you get that passport and visa?

6 A I got it after one year. I got it December 17th and it was approved
7 December 18th, 1971.

8 Q Any difficulty between December of 1970 and December of '71. Did you
9 have any difficulty with the government?

10 A I remember in getting the passport and I was up in the Department of
11 Foreign Affairs applying for the passport. They gave me a run around come
12 back this, come back that, this time and this day. They kept on doing doing
13 it till I finally got my passport.

14 Q Were you threatened?

15 A I wasn't threatened personally.

16 Q Were you threatened at anytime- all during these periods you are talking
17 about today?

18 A No I wasn't threatened.

19 Q That's by the government of course and the government's agent.

20 A Excuse me.

21 Q Threatened by anybody from the government?

22 A By the government no I wasn't threatened.

23 Q As to the time when the search of your home was made can you fix a date
24 to that when the constabulary went to your home?

25 A I would recall when my mother wrote me a letter in about October of 1972.

26 Q That was right after the declaration of martial law?

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TRANSCRIPT OF HEARING

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1 A Declaration of martial law.

2 Q Since then they have not been back?

3 A No.

4 TRIAL ATTORNEY TO RESPONDENT:

5 Q After you quit school?

6 COUNSEL: All right just let me say something.

7 IMMIGRATION JUDGE: Mr. Dunlop let Mr. Barry finish.

8 TRIAL ATTORNEY: I'm sorry I thought(inaudible)...
all

9 COUNSEL: That's right.

10 COUNSEL: I would like to get back to...

11 COUNSEL TO RESPONDENT:

12 Q Your claim then is Mr. Ubaldo that you served the Republic of the
13 Philippines between May of 1968 and December 1970 in a capacity of an
14 intelligence officer and that the fact that you denounced the operations
15 of the government to your superiors would result in physical persecution
16 to you if you returned?

17 A Yes.

18 Q Now you submitted this application the same type of an application to
19 the Department of State in connection with a claim of political asylum didn't
20 you?

21 A Yes.

22 IMMIGRATION JUDGE:

23 Q Do we have the...

24 COUNSEL: Yes here's the ...

25 IMMIGRATION JUDGE: Is there any objection Mr. Barry?

26 COUNSEL: I've read the letter of Mr. Wiesner and I ask that Mr. Wiesner

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1 be produced by the government so that he can be examined on the content of
2 this letter. In view of the fact that there is nothing in that letter that
3 even indicates the source of his information with respect to his conclusion.
4 Likewise the learned writer of that letter says he can presumably get police
5 protection and since it was the lack of ability to protect himself the-I
6 don't think that the person shall presume police protection.

7 IMMIGRATION JUDGE: All right I understand the argument counsel. What I
8 will do is accept the letter of Mr. Wiesner who is the Director of the Office
9 of Refugee and Migration Affairs dated March 29, 1974 as Exhibit B-3 for
10 what ever it is worth. I do not believe that Mr. Wiesner would have any
11 evidence bearing on this issue that could help me make a judgment in this
12 case. I feel that you could help if you do have additional evidence con-
13 cerning which Mr. Wiesner is talking about. Mr. Wiesner can't furnish that
14 evidence. Only you can. That is why we are having this hearing-to give you
15 that opportunity. Mr. Barry you may proceed. But Mr. Wiesner I am afraid
16 will not be able to elucidate on this issue at all.

17 COUNSEL: He is...

18 IMMIGRATION JUDGE: What was that again Mr. Barry?

19 A He has been very steadfastly unable to elucidate on the issue since
20 so much more is involved in the Philippines other than Mr. Rolando Ubaldo.

21 COUNSEL: Let me have the memo then. I have no further questions.

22 IMMIGRATION JUDGE TO TRIAL ATTORNEY:

23 Q Mr. Dunlop?

24 TRIAL ATTORNEY TO RESPONDENT:

25 Q You mentioned that your family...

26 COUNSEL: Excuse me just... I ask that everything that Mr. Ubaldo submitted
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United States Department of Justice — Immigration and Naturalization Service

in connection with his application for political asylum be made part of this record in view of the fact we only have one side of the coin with Mr. Wlesner's letter there.

IMMIGRATION JUDGE: Well Mr. Barry, I assume Exhibit R-1 was what was submitted in this case. Was there more?

IMMIGRATION JUDGE TO TRIAL ATTORNEY:

Q Mr. Dunlop I am showing you Exhibit R-1. Was this furnished to the State Department in connection with the application for political asylum?

A Let me look through the file and see what was in the file addressed to the Director of the Office of Refugee and Migration Affairs on August 30, 1973.

IMMIGRATION JUDGE: Mr. Barry would you like to have that included?

COUNSEL: Yes and I would like to have a copy/it which I never received.

Q Do you want to see it?

A Yes I would like to see it and also have a copy of it.

IMMIGRATION JUDGE TO TRIAL ATTORNEY:

Q Mr. Dunlop could you furnish Mr. Barry a copy of that?

TRIAL ATTORNEY: I'm going to give him a copy.

Q Was the letter all that was furnished rather than the application for stay of deportation. Mr. Barry?

A Yes I would like to have it incorporated to/yes.

Q All right I have before me a letter dated August 30, 1973 signed by the then District Director, Sol Marks with no enclosure, which ^{was} sent to the Director of Refugee and Migration Affairs, received as Exhibit R-4. I believe Mr. Barry that this letter incorporates some of the matters raised.

A Some of the matters...

Q But not all, all right. Do you believe that there would be any purpose based on Exhibit R-1 and Exhibit R-4 which is the letter referred to dated

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United States Department of Justice — Immigration and Naturalization Service

1 August 30, 1973 to resubmit the request of political asylum to the State
2 Department or do you believe the letter does incorporate substantially what
3 was stated by the respondent in the request for a stay of deportation. Or
4 do you wish me to make that judgment?

5 A I think you better make that judgment.

6 Q I believe that after reading page 2 of the letter of August 30, 1973 that
7 all of the allegations raised by the respondent has been adequately covered
8 and no purpose would be served at this time to resubmit the request to Mr.
9 Wiesner in the State Department. In other words I don't believe that there
10 is any evidence of a nature which he didn't have in his possession which
11 would warrant at this time a resubmission to the State Department. Mr. Barry
12 do you defer at this time to Mr. Dunlop or do you wish to proceed?

13 A I defer to Mr. Dunlop.

14 IMMIGRATION JUDGE: Mr. Dunlop?

15 TRIAL ATTORNEY: Yes.

16 TRIAL ATTORNEY TO RESPONDENT:

17 Q This reference to your family after you left your homeland and they were
18 you say they were at your home. What did they do at your home?

19 A You mean my mother and my father.

20 Q Did they threatened them that's what I mean. Did they search?

21 A They searched the house.

22 Q Did they threatened?

23 A My mother didn't mention anything about threatening.

24 IMMIGRATION JUDGE Nothing mentioned about threats.

25 Q Did they inquire of you particularly?

26 A They inquired about me.

TRANSCRIPT OF HEARING

United States Department of Justice — Immigration and Naturalization Service

1 Q They asked about you?

2 A Yes.

3 Q In what way?

4 A Is your Bobby living here, my mother yes but he is not here.

5 Q I see.

6 IMMIGRATION JUDGE TO RESPONDENT:

7 Q Mr. Dunlop before you proceed let's lay a foundation...

8 What relatives have you living in the Philippines? Could you state that for
9 the record at this time?

10 A I was living with my mother with my father, brothers and sisters.

11 Q Your mother and father had a home?

12 A Yes.

13 Q In which brothers, sisters and yourself lived?

14 A All together.

15 Q Now how many brothers and how many sisters?

16 A I have two sisters and four brothers left.

17 Q They still live with your parents these two sisters and four brothers?

18 A Yes.

19 Q Are they older or younger than you?

20 A They are younger than me.

21 Q Are you married?

22 A Yes, I was separated your honor.

23 Q Where is your wife?

24 A Gee I really don't know.

25 Q Were you married here or in the Philippines?

26 A In the Philippines.

TRANSCRIPT OF HEARING

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1 Q When you left the Philippines you were already separated?

2 A I was already separated from her.

3 TRIAL ATTORNEY TO RESPONDENT:

4 Q How many children did you have?

5 A Two.

6 Q Where are your children now?

7 A My children are living with my mother.

8 IMMIGRATION JUDGE: Are your parents employed in the Philippines?

9 A My mother is working with another relative who owns a kind of variety
10 store and she helped there as a helper.

11 Q And your dad?

12 A My dad is retired from the Zone Stevedoring Corporation?

13 Q The Zone Stevedoring Corporation?

14 A Yes.

15 Q What was his job when he was working?

16 A As an IBM operator.

17 Q What about your brothers and sisters?

18 A The eldest brother that I left behind named Francesco is now employed at
19 the Pepsi Cola Bottling Company Philippines.

20 Q As what?

21 A As a forklift operator.

22 Q And the other?

23 A The rest/^{are}all students your honor.

24 Q And the girls?

25 A The girls are all students.

26 Q Do you have any family in the United States?

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1 A No your honor.

2 IMMIGRATION JUDGE TO TRIAL ATTORNEY:

3 Q Mr. Dunlop?

4 TRIAL ATTORNEY TO RESPONDENT:

5 Q Were you sisters, your brothers or your parents threatened in any way by
6 the government?

7 A No.

8 Q Now these threats that you are fearful of are they from the government or
9 are they from your police or underground organizations that you mentioned
10 before?

11 IMMIGRATION JUDGE: Is there any objection to that Mr. Barry?

12 COUNSEL: No but I was sorry.

13 TRIAL ATTORNEY: I am just trying to determine ...

14 A Could you rephrase it again.

15 IMMIGRATION JUDGE: One moment let's hear what the record...

16 Q Do you understand the question?

17 A Yes. I am afraid of the underground threats plus the personal persecution
18 I would be subject to if I go back to the Philippines.

19 Q And these underground organizations are they in any way connected with the
20 government?

21 A No they are not.

22 IMMIGRATION JUDGE: Did anyone in the underground threaten you.

23 A When I was in the Philippines your honor.

24 Q Yes or even while you have been here?

25 A Well when I was in the Philippines I was threatened I was exposed as a
26 informer.

TRANSCRIPT OF HEARING

United States Department of Justice — Immigration and Naturalization Service

Q When were you exposed?

A I was exposed when there was a mass rally that was held ^{in front} of the Congress, the Philippine Congress.

Q When?

A In the year 1969. I can't remember what month it is, and one of the student leaders called my attention and says I've been you somewhere so I explained that I am a student too and I was carrying books pretending that I belonged to the groups and then the student leader says I think that you are not a student.

TRIAL ATTORNEY TO RESPONDENT:

Q All right. After you quit school-when you finished up with school did you go to work?

A I did go to work but I got help from a Congressman to give me a job in the ...

Q Congressman of the Philippine government?

A He's a Congressman of a local place, it is a province.

Q What kind of work did you do?

A He didn't really give me but he referred me to somebody else he gave me a letter to give the letter to a man and I was asked to fill out an application and I was given a temporary job.

Q What kind of job was that?

A It's a motor assembler, the Delta Motor Corporation. They assemble Japanese cars-toyota cars, that is where I worked as a clerk before I left.

Q And did the government interfere with your job in any way while you were working there?

A No they did not interfere.

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TRANSCRIPT OF HEARING

United States Department of Justice — Immigration and Naturalization Service

1 Q And you had no problems at all in getting the passport is that correct
2 other then minor difficulties that you testified to before?

3 A Yes.

4 TRIAL ATTORNEY: I have no more questions.

5 IMMIGRATION JUDGE TO COUNSEL: Mr. Barry?

6 COUNSEL TO RESPONDENT:

7 Q You stated to Judge Cohen that you have no relatives in this country?

8 A No I didn't say that. I have relatives here.

9 IMMIGRATION JUDGE: Maybe you didn't understand the question. Do you want
10 to listen to Mr. Barry.

11 Q Will you tell me what relatives you have here in this country?

12 A I have a sister in here.

13 Q What is her status?

14 A Her status is an immigrant and she is married to ...

15 Q He's a citizen?

16 A They are not a citizen yet but they have filed their applications to
17 become citizens.

18 Q Both of them?

19 A Both of them.

20 Q How long has your sister been here?

21 A If I am not mistaken she came in 1972.

22 IMMIGRATION JUDGE: Mr. Barry?

23 COUNSEL: No go ahead.

24 IMMIGRATION JUDGE: Since there is nothing further by either counsel I am
25 going to reserve decision on this application. The hearing is closed.
26

UNITED STATES DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE

20 West Broadway
New York, N.Y. 10007

Date: October 8, 1974

Barry, Barry & Barry, Esqs.
One Hunter Street
Long Island City, N.Y. 11101

File: A - 20 098 298

and
William Dunlop, Esq.
Trial Attorney
New York, New York 10007

Dear Sirs:

MATTER OF
ROLANDO UBALDO

Mr. Barry:

☒ Attached is a copy of the written decision of the Immigration Judge. This decision is final unless an appeal is taken to the Board of Immigration Appeals by returning to this office on or before October 29, 1974 the enclosed copies of Form I-290A, Notice of Appeal, properly executed, together with a fee of twenty-five dollars (\$25.00). If you wish

Mr. Dunlop: submit a supporting brief it should also be returned on or before that date.

☒ Attached is an information copy of the ~~oral~~ decision of the Immigration Judge made on October 3, 1974

~~XXXXXXXXXX~~

☒ Attached, as requested, is a transcript of the testimony of record, pages to which is being loaned to you on condition that no copy thereof will be made, that it will be retained in your possession and control, and that it will be surrendered upon final disposition of the case or upon demand by the Service.

☐ You are advised that on the Immigration Judge entered an order, which is final, granting the application for adjustment of status to that of a permanent resident under Section of the Immigration and Nationality Act. A Form I-151, Alien Registration Receipt Card will be delivered in due course.

☐ You are granted additional time until to submit a brief to this office in support of your appeal.

Very truly yours,

Frederic B. Terrell

Special Inquiry Aide
Immigration Court

LBT/tlj

OCT 9 1974

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service

File: A2C 098 298 - New York, New York

OCT 3 1974

In the Matter of:

ROLANDO UGALDE)

IN DEPORTATION PROCEEDINGS

- Respondent -)

CHARGE: I & N Act - Section 241(a)(2) (8 USC 1251(a)(2)) -
remained longer - visitor.

APPLICATION: Withholding of deportation pursuant to Section 243(b)
(8 USC 1253(b)).

In Behalf of Respondent:

In Behalf of Service:

Barry, Barry & Barry, Esqs.
One Hunter Street
Long Island City, N.Y. 11101
John Barry, of counsel.

William Dunlap, Esq.
Trial Attorney
New York, New York 10007

DECISION OF THE IMMIGRATION JUDGE

The respondent is a 27 year old, married male alien, a native and citizen of the Philippines who entered the United States on December 19, 1971 as a nonimmigrant visitor authorized to remain until March 19, 1972. He was granted voluntary departure on or before July 14, 1973 with the alternative order of being deported to the Philippines if he did not comply. Failing to depart the Immigration and Naturalization Service issued a warrant of deportation. On April 27, 1974 respondent moved to reopen the proceedings for the purpose of applying

for the benefits of Section 243(h) of the Immigration and Nationality Act. The Immigration and Naturalization Service not being opposed to such application, I ordered the proceedings reopened.

At the original deportation hearing on May 14, 1973 respondent designated the Philippines as the country of deportation. The respondent's attorney, a member of the same law firm which represented the respondent on May 14, 1973 when no application for withholding of deportation was made, has withdrawn the designation of the Philippines and designates Spain.

The respondent testified that from May 1964 to December 1971 he had been employed by the Philippine Constabulary as an undercover agent to infiltrate communist organizations in various Philippine universities. At the time of his recruitment he was a student at the Far Eastern University in Manila, Philippines. Not being self supporting, he accepted the position to enable him to complete his studies. He reported approximately five students to the Constabulary as suspected communists.

Shortly after beginning his employment money was involuntarily deducted from his bi-weekly pay check, which he believed was pocketed by the payroll clerks. The current president of the Philippines, Ferdinand Marcos, was the president during his employment with the constabulary. Being

disillusioned with the corruption of the government which he personally experienced, he renounced Mr. Marcos in July 1970 by orally stating so to his immediate superiors. The latter did not take him seriously and suggested that he put it in writing. He did not do this for fear that the underground communist organizations would learn of his previous activities. In December 1970 he left the Constabulary and cut off from home, he was forced to leave the university where he had completed two years of electrical engineering.

I In October 1972 after the declaration of martial law in the Philippines his mother wrote him that the Constabulary had searched their home. He believes they may have been looking for him.

However, his parents, two sisters and four brothers presently reside in the Philippines and have never been threatened by the government. His father is retired, his mother is a retail clerk and other than one brother who is a fork lift operator, the other brothers and sisters are students. His other sister is a permanent resident of the United States.

His family has money to do with him

In December 1971 the respondent was able to obtain a passport to leave the Philippines. From December 1970 to December 1971 when he arrived in the United States he was employed as a clerk. During that year he was never personally threatened by the government. He

further testified that he was exposed as an informer as early as 1969, but denied that the underground communist organizations harmed him in any way.

The respondent fears persecution by the government because of renouncing the Marcos government, and is afraid of communist underground threats. Under 8 CFR 242.17(c) the respondent is charged with the burden of establishing that he would be subject to persecution if deported to the Philippines. Respondent has failed to satisfy this requirement. The State Department considered the respondent's request and turned down his application for political asylum. Little has been added to the information furnished the State Department. The only testimony of record is respondent's self serving claim of political persecution. This claim was not raised at his original deportation hearing. Yet the record fails to reflect what changes, if any, warrants such application to be made at this belated date. All of the information which could possibly cause difficulty to the respondent at the hands of the Philippine government and/or, the communist underground was known to both before he left the Philippines in 1971. Further, he received a passport one year after he left government employment and one and one-half years after denouncing the government. He conceded that no harm came to him during that time either at the hands of the government or communist organizations he had infiltrated, although he was exposed

as an informer in 1969.

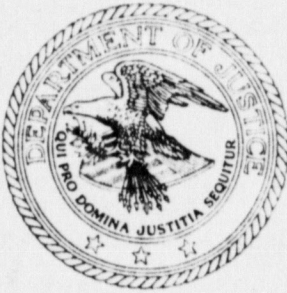
The respondent has failed to show a well-founded fear that his life or freedom would be threatened in the Philippines on account of his race, religion, nationality or membership of a particular social group or political opinion. In Matter of Quang Interior Decision 2192 (MIA 1973). See also Matter of DIAH 10 I & N Dec. 197. Consequently, respondent's application for withholding of deportation should be denied.

ORDER: IT IS ORDERED that respondent be deported from the United States to Spain on the charge contained in the Order to Show Cause.

IT IS FURTHER ORDERED that if the aforementioned country advises the Attorney General that it is unwilling to accept respondent into its territory or fails to advise the Attorney General within three months following original inquiry whether it will or will not accept respondent into its territory, respondent shall be deported to the Philippines.

IT IS FURTHER ORDERED that the respondent's application to withhold deportation to the Philippines be and the same, is hereby denied.

Howard I. Cohen
HOWARD I. COHEN
Immigration Judge



United States Department of Justice

Board of Immigration Appeals

Washington, D.C. 20530

File: A20 098 298 - New York

MAY 15 1975

In re: ROLANDO UBALDO

IN DEPORTATION PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Leo H. Barry, Esquire
Barry, Barry & Barry
One Hunter Street
Long Island City, N.Y. 11101

ON BEHALF OF I&N SERVICE: Paul C. Vincent
Appellate Trial Attorney

ORAL ARGUMENT: February 11, 1975

CHARGE:

Order: Section 241(a)(2), I&N Act (8 U.S.C. 1251(a)(2)) - Nonimmigrant visitor for pleasure - remained longer than permitted

APPLICATION: Withholding of deportation pursuant to section 243(h), Immigration and Nationality Act

This case presents an appeal from a decision of the immigration judge rendered on October 3, 1974, denying the respondent's application for withholding of deportation pursuant to the provisions of section 243(h) of the Immigration and Nationality Act, as amended. The immigration judge ordered the respondent's deportation to Spain in the first instance, and alternatively to the Philippines if the Spanish Government advised the Attorney General it was unwilling to accept the respondent into its territory or fails to notify the Attorney General within three months if it is willing to accept the respondent into its territory. The appeal will be dismissed.

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The respondent is a native and citizen of the Philippines, age 27, who entered the United States on December 19, 1971 as a nonimmigrant visitor and was authorized to remain in this country until March 19, 1972. He was granted voluntary departure on or before July 14, 1973 but failed to depart. The Service then issued a warrant of deportation. On April 27, 1974, the respondent moved to reopen the proceedings to consider his application for relief under section 243(h) of the Act.

The application for withholding of deportation is based on the respondent's claim that he renounced President Marcos' Government and fears Communist underground threats.

In denying the respondent's section 243(h) application, the immigration judge noted, in pertinent part, as follows:

... Under 8 CFR 242.17(c) the respondent is charged with the burden of establishing that he would be subject to persecution if deported to the Philippines. Respondent has failed to satisfy this requirement. The State Department considered the respondent's request and turned down his application for political asylum. Little has been added to the information furnished the State Department. The only testimony of record is respondent's self-serving claim of political persecution. This claim was not raised at his original deportation hearing. ...

We have reviewed the record and conclude that the decision of the immigration judge was correct. We are satisfied that the respondent has failed to make a prima facie showing of a well-founded fear that his life or freedom would be threatened in the Philippines on account of his race, religion, nationality, membership in a particular social group, or political opinion. We therefore conclude that he will not be subject to persecution if deported there. See Matter of Dumar, Interim Decision 2192 (BIA 1973). Accordingly, we shall uphold the immigration judge's decision and dismiss the appeal.

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ORDER: The appeal is dismissed.

Chairman

COPY RECEIVED
James J. Curran
UNITED STATES ATTORNEY
9/22/75 *[Signature]*